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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/877,257	06/11/2001	Takakazu Hino	010725	8002

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EXAMINER

CHANNAVAJJALA, LAKSHMI SARADA

ART UNIT	PAPER NUMBER
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1615

DATE MAILED: 09/02/2003

9

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/877,257

Applicant(s)

HINO ET AL.

Examiner

Lakshmi S Channavajjala

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 June 2003.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 8.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Receipt of IDS and amendment B, both dated 6-18-03 is acknowledged.

Claim 3 is pending in the instant application.

The following rejection of paper #6 has been maintained for the reasons of record:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over US 4,378,345 to Okumura et al (Okumura) in view of US 4,987,681 to Adachi et al (Adachi) or Adachi in view of Okumura.

Okumura teaches a hair setting composition containing polyethylene glycol and a divalent or trivalent metal salt of pyrrolidonecarboxylic acid or a polyoxyalkylene added silicone oil (col. 2, lines 13-23). The polyoxyalkylene polysiloxane (formula I) of Okumura is described in col. 3, reads on the instant polysiloxanes. Okumura teaches that polyoxyalkylene polysiloxane is used in an amount of 0.1% to 5% for a favorable hairdressing and touch effect. Okumura does not teach hair-growing composition.

Adachi teaches a hair growing agent containing as an effective ingredient an aliphatic carboxylic acid, which exhibits strong hair growing effect as compared to the known hair growing agent s Vitamin E, serine, methionine etc. (col. 1 and col. 3). Adachi further teaches that the hair growing compositions containing hair growing agent contains a carrier selected from

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water, alcohol, a siloxane such as a dimethyl siloxane, phenyl siloxane or polyoxyalkylene siloxane (col. 5, lines 26-37). Adachi teaches the composition in the form of a cream, lotion, shampoo etc (see examples).

Adachi does not teach the specific polyoxyalkylene silicone polymer of the instant composition. However, Adachi recognizes polyoxyalkylene polysiloxanes as an art known carrier in hair growing compositions. Accordingly, it would have been obvious for one of an ordinary skill in the art at the time of the instant invention to substitute the specific the polyoxyalkylene polysiloxane (formula I) of Okumura as a carrier for the general polyoxyalkylene polysiloxane in the hair growing composition of Adachi because Adachi recognizes the class of polysiloxanes in general as carriers and Okumura teaches that polyoxyalkylene polysiloxane imparts good hair setting effects and imparts good touch to the hair. Alternatively, the polysiloxane of Okumura can be used as a hair-setting agent in hair setting composition (Okumura) as well as use as a general carrier for hair growing agents in a hair growth promoting composition.

Response to Arguments

Applicant's arguments filed 6-18-02 have been fully considered but they are not persuasive.

Instant claim 3 has been amended to reflect the variable m of formula I as 1-4 as opposed to $m = 1-50$ as claimed before. Applicants argue that Okamura does not teach the compound of instant formula II and that the main chain compounds resulting from formula I and formula II of Okamura will have 13 and 8 silicone atoms at least, which are different from the compound resulting from the instant formula, which has about 7 silicone atoms. Further, while instant claim

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results in a compound with 7 silicone atoms, the compound derived from formula II of Okamura results in 8 silicone atoms, which differs only by one silicone atom. It appears from the instant specification that the number of silicone atoms in the main chain of the polyoxyalkylene modified silicone compounds is not critical to its function as an additive for hair growing effect. Further, applicants have not shown any criticality in terms of the length of main chain silicone atoms in imparting a hair additive effect. Therefore optimizing the length of silicone atoms in the polyoxyalkylene polysiloxane of Okamura for its use as a hair-growing additive (as suggested by Adachi) would have been within the scope of a skilled artisan.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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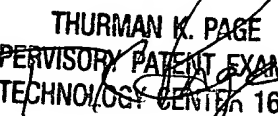
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lakshmi S Channavajjala whose telephone number is 703-308-2438. The examiner can normally be reached on 7.30 AM -4.00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman K Page can be reached on 703-308-2927. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7924 for regular communications and 703-308-7924 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1235.



Lakshmi S Channavajjala
Examiner
Art Unit 1615
August 28, 2003



THURMAN K. PAGE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600